

## 2013 DRAFTING REQUEST

### Assembly Amendment (AA-AB40)

Received: 5/30/2013 Received By: mglass  
Wanted: As time permits Same as LRB:  
For: Legislative Fiscal Bureau By/Representing: Probst  
May Contact: Drafter: mglass  
Subject: Nat. Res. - fish and game Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Legislative Fiscal Bureau  
Carbon copy (CC) to:

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#### Pre Topic:

LFB:.....Probst -

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#### Topic:

Fish farm regulation studies

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#### Instructions:

See attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mglass 5/31/2013			_____			
/1	mglass 6/3/2013	evinz 5/31/2013	jmurphy 5/31/2013	_____	strose 5/31/2013		
/2	mglass 6/5/2013	csicilia 6/5/2013	rschluet 6/5/2013	_____	sbasford 6/3/2013		
/3	mglass	csicilia	jmurphy	_____	mbarman		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	6/5/2013	6/5/2013	6/5/2013	_____	6/5/2013		

FE Sent For:

**<END>**

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/2		evinz 6/3/2013	rschluet 6/3/2013	_____	sbasford 6/3/2013		

FE Sent For:

13 yrs 6/5  
13 6/5  
jm  
6/5 self  
<END>

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**Pre Topic:**

LFB:.....Probst -

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**Topic:**

Fish farm regulation study

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**Instructions:**

See attached

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/?	mglass 5/31/2013			_____			
/1		evinz 5/31/2013	jmurphy 5/31/2013	_____	srose 5/31/2013		

FE Sent For:

12 eev  
6/3/13

<END>

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LFB:.....Probst -

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**Topic:**

Fish farm regulation study ✓

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**Instructions:**

See attached

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/?	mglass	1 rev 5/31/13		_____			

FE Sent For:

<END>

and private fish farms to purchase fish for the purpose of raising walleye for stocking in Wisconsin waters. For the purposes of implementing this subsection, specify that DNR may furnish or sell at cost fish or fish eggs to municipalities and private fish farms and the Department may enter into agreements or contracts for periods of up to five years. Also, specify that in addition to the amount appropriated for the contracts for purchase of walleye, DNR may also expend all monies received from the sale of fish or fish eggs to municipalities and private fish farms for the contracts. Further, specify that DNR may promulgate emergency rules for implementing this section without the finding of an emergency and specify that these rules remain in place until June 30, 2016 or until permanent rules are established, whichever is sooner.

5. *UW-Extension Private Fish Farms.* Provide \$160,000 GPR in fiscal year 2013-14 in one-time funding and direct DNR to provide a grant to UW-Extension for work with private fish farms through the end of fiscal year 2013-14. [UW Extension aquaculture (fish farm) outreach specialists work with public, private, and tribal groups to develop programs and provide services that support industry growth and profitability including: business plan development and individual consultations, aquaculture field days, workshops and vendor fairs, facility planning to support best management practices, biosecurity workshops, beginning aquaculture workshops, and veterinarian health training workshops].

6. *Private Fish Farm Stocking Capacity Study.* Direct DNR, in consultation with the Department of Administration (DOA), the Department of Agriculture, Trade, and Consumer Protection (DATCP), the Wisconsin Economic Development Corporation (WEDC), the Wisconsin Aquaculture Association, and the University of Wisconsin Extension System, to conduct a study of the current and future capacity of private fish farms to stock fish in Wisconsin waters for the purpose of maintaining and enhancing fish populations. Require DNR to submit a report of the study results to the appropriate standing committees of the Legislature by June 30, 2014.

7. *Fish Farm Regulations Study.* Direct DNR, in cooperation with DATCP, to conduct a study of the regulations applicable to private fish farms in Wisconsin to assess the need for existing regulations, reducing regulatory overlap and streamlining regulatory processes in DNR and DATCP. Authorize DNR and DATCP to promulgate administrative rule changes necessary to implement the recommendations of the study as emergency rules without the finding of an emergency. Specify that these emergency rules may remain in place until June 30, 2016, or until permanent rules are established, whichever is sooner. Further direct DNR, in cooperation with DATCP, to evaluate the viability of establishing a fish hatchery stamp. Require DNR to submit a report of the fish farm regulation and hatchery stamp study results to the appropriate standing committees of the Legislature and the Joint Committee for Review of Administrative Rules by November 15, 2013.

8. *Tribal Youth Program.* Provide \$250,000 GPR annually in a new annual appropriation to expand the existing summer Tribal Youth Program. Allow DNR to provide up to 50% of eligible project costs to provide tribal high school-aged youth with an opportunity to work on natural resources-related projects.



State of Wisconsin  
2013 - 2014 LEGISLATURE



RMR  
LRBb02777/A 1  
MGG:.....  
Leev

(D-N)

LFB:.....Probst – Fish farm regulation study

**FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO ASSEMBLY BILL 40**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 417, line 3: after that line insert:

3 “SECTION 572m. 29.721 of the statutes is created to read:

4 **29.721 Fish farm study and rules.** (1) STUDY. The department of natural  
5 resources and the department of agriculture, trade and consumer protection shall  
6 conduct a study of the state laws that are in effect on the effective date of this  
7 subsection [LRB inserts date] and that are applicable to fish farms, as defined in  
8 s. 95.001 (1) (aj), for the purpose of assessing the need for these laws. In making this  
9 assessment, both departments shall study the issue of overlap among these laws and  
10 the possibility of streamlining the procedures used by both departments in  
11 administering these laws. The study shall also include an assessment of the viability

subsection Δ....Δ[LRB inserts date]

1 of creating a fish hatchery stamp that would be issued to holders of licenses under  
2 this chapter that authorize fishing for sport. Both departments shall jointly make  
3 recommendations based on the study, and the department of natural resources shall  
4 prepare a report containing the results of the study and these recommendations. The  
5 department of natural resources shall submit the report to the appropriate standing  
6 committees of the legislature and to the joint committee for review of administrative  
7 rules under s. 13.172 (3) no later than November 15, 2013.

8 (2) RULES. The department of natural resources and the department of  
9 agriculture, trade and consumer protection may jointly promulgate rules to  
10 implement any of <sup>the</sup> recommendations contained in the report prepared under sub. (1)."

11 2. Page 1025, line 16: after that line insert:

12 4L = "(P) STUDY ON FISH FARMS. The department of natural resources and the  
13 department of agriculture, trade and consumer protection may use the procedure  
14 under section 227.24 of the statutes to jointly promulgate rules under section 29.751  
15 (2) of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and  
16 (2) of the statutes, emergency rules promulgated under this subsection remain in  
17 effect until June 30, 2016, or the date on which permanent rules take effect,  
18 whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes,  
19 neither department is required to provide evidence that promulgating a rule under  
20 this subsection as an emergency rule is necessary for the preservation of the public  
21 peace, health, safety, or welfare, and neither department is required to provide a  
22 finding of emergency for a rule promulgated under this subsection." ✓

23 (END)

d-note

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb027777dn

MGG:.....

51  
Leev

date

Please remember that DNR and DATCP's authority to promulgate rules to implement the study's recommendations is limited by the fact that any rule that is promulgated, either as an emergency rule or a permanent rule, may not conflict with the current statutes. To the extent that a rule conflicts with a statute, the statute controls and the conflicting rule has no effect.

There are two definitions of "fish farm" that could be incorporated by reference. I have incorporated the broader definition, but you may wish to use the narrower definition found in s. 29.001 (26) or create a new definition.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215  
E-mail: mary.gibson-glass@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0277/1dn  
MGG:eev:jm

May 31, 2013

Please remember that DNR and DATCP's authority to promulgate rules to implement the study's recommendations is limited by the fact that any rule that is promulgated, either as an emergency rule or a permanent rule, may not conflict with the current statutes. To the extent that a rule conflicts with a statute, the statute controls and the conflicting rule has no effect.

There are two definitions of "fish farm" that could be incorporated by reference. I have incorporated the broader definition, but you may wish to use the narrower definition found in s. 29.001 (26) or create a new definition.

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E-mail: mary.gibson-glass@legis.wisconsin.gov



State of Wisconsin  
2013 - 2014 LEGISLATURE



EMR

LRBb0277/y2

MGG:eev;jm

stays

Lps:  
Fix request  
sheet

LFB:.....Probst - Fish farm regulation study studies

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO ASSEMBLY BILL 40**

d-note

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 417, line 3: after that line insert:

3 "SECTION 572m. 29.721 of the statutes is created to read:

4 **29.721 Fish farm study and rules.** (1) STUDY. The department of natural  
5 resources and the department of agriculture, trade and consumer protection shall  
6 conduct a study of the state laws that are in effect on the effective date of this  
7 subsection .... [LRB inserts date], and that are applicable to fish farms, as defined in  
8 s. 95.001 (1) (aj), for the purpose of assessing the need for these laws. In making this  
9 assessment, both departments shall study the issue of overlap among these laws and  
10 the possibility of streamlining the procedures used by both departments in  
11 administering these laws. The study shall also include an assessment of the viability

1 of creating a fish hatchery stamp that would be issued to holders of licenses under  
2 this chapter that authorize fishing for sport. Both departments shall jointly make  
3 recommendations based on the study, and the department of natural resources shall  
4 prepare a report containing the results of the study and these recommendations. The  
5 department of natural resources shall submit the report to the appropriate standing  
6 committees of the legislature and to the joint committee for review of administrative  
7 rules under s. 13.172 (3) no later than November 15, 2013.

8 (2) RULES. The department of natural resources and the department of  
9 agriculture, trade and consumer protection may jointly promulgate rules to  
10 implement any of the recommendations contained in the report prepared under sub.  
11 (1).”

← INS 2-11

12 2. Page 1025, line 16: after that line insert:

13 “(4L) STUDY ON FISH FARMS. The department of natural resources and the  
14 department of agriculture, trade and consumer protection may use the procedure  
15 under section 227.24 of the statutes to jointly promulgate rules under section 29.721

16 (3) ~~(2)~~ of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and  
17 (2) of the statutes, emergency rules promulgated under this subsection remain in  
18 effect until June 30, 2016, or the date on which permanent rules take effect,  
19 whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes,  
20 neither department is required to provide evidence that promulgating a rule under  
21 this subsection as an emergency rule is necessary for the preservation of the public  
22 peace, health, safety, or welfare, and neither department is required to provide a  
23 finding of emergency for a rule promulgated under this subsection.”

24 (END)

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb0277/2ins  
MGG:.....

start  
INS 2-11

1       **29.721 Fish farm studies and rules.** (1) STUDIES. (a) The department of  
2       natural resources and the department of agriculture, trade and consumer protection  
3       shall conduct a study of the statutes and administrative rules that are in effect on  
4       the effective date of this paragraph ... [LRB inserts date], and that are applicable to  
5       fish farms, as defined in s. 95.001 (1) (aj), for the purpose of assessing the need for  
6       these statutes and rules. In making this assessment, both departments shall study  
7       the issue of overlap among these statutes and rules and the possibility of  
8       streamlining the procedures used by both departments in administering these  
9       statutes and rules.

10       (b) The department of natural resources and the department of agriculture,  
11       trade and consumer protection shall also conduct a study on the viability of creating  
12       a fish hatchery stamp that could be issued to holders of licenses under this chapter  
13       that authorize fishing for sport.

14       (2) RECOMMENDATIONS AND REPORT. The department of natural resources and the  
15       department of agriculture, trade and consumer protection shall jointly make  
16       recommendations based on the studies conducted under <sup>sub. (1)</sup> pars. (a) and (b) and the  
17       department of natural resources shall prepare a report containing the results of the  
18       studies and these recommendations. The department of natural resources shall  
19       submit the report to the appropriate standing committees of the legislature and to  
20       the joint committee for review of administrative rules under s. 13.172 (3) no later  
21       than November 15, 2013.

22       (3) RULES. The department of natural resources and the department of  
23       agriculture, trade and consumer protection may jointly promulgate rules to

- 1 implement any of the recommendations for changes to administrative rules that are
- 2 based on the study conducted under sub. (1) (a) and that will not result in a conflict
- 3 with the statutes.' ,

end Ins 2-11

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0277/2dn

MGG:./...  
Leev

date

Erin:

This redraft divides the study into <sup>two</sup> 2 studies so that it is clear that a requirement for a fish hatchery stamp may not be promulgated by rule.

I have also redrafted this amendment to address our concerns that rules that would conflict with the statutes may not be promulgated.

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0277/2dn

MGG:eev:rs

June 3, 2013

Erin:

This redraft divides the study into two studies so that it is clear that a requirement for a fish hatchery stamp may not be promulgated by rule.

I have also redrafted this amendment to address our concerns that rules that would conflict with the statutes may not be promulgated.

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LFB:.....Probst - Fish farm regulation studies

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT,**

**TO ASSEMBLY BILL 40**

LPS: these components need to be changed to nonstat components

4q

1025

16

A

no B  
C+S

A

10

At the locations indicated, amend the bill as follows:

1. Page 417, line 3; after that line insert:

~~SECTION 572m. 29.721 of the statutes is created to read:~~

~~29.721~~ (Fish farm studies and rules, (1) (STUDIES), (a) (The department of natural resources and the department of agriculture, trade and consumer protection shall conduct a study of the statutes and administrative rules that are in effect on the effective date of this paragraph, ... [LRB inserts date], and that are applicable to fish farms, as defined in (s. 95.001 (1) (aj), for the purpose of assessing the need for these statutes and rules. In making this assessment, both departments shall study the issue of overlap among these statutes and rules and the possibility of

section

of the statutes

29 of the statutes

LRs: those components need to be changed to nonstat components

streamlining the procedures used by both departments in administering these statutes and rules. 2.

~~LR 2013~~ The department of natural resources and the department of agriculture, trade and consumer protection shall also conduct a study on the viability of creating a fish hatchery stamp that could be issued to holders of licenses under this chapter that authorize fishing for sport. *Italic NOCS*

(b) (2) RECOMMENDATIONS AND REPORT. The department of natural resources and the department of agriculture, trade and consumer protection shall jointly make recommendations based on the studies conducted under *paragraph (a) 1. and 2.* ~~sub (1) (a) and (b)~~ and the department of natural resources shall prepare a report containing the results of the studies and these recommendations. The department of natural resources shall submit the report to the appropriate standing committees of the legislature and to the joint committee for review of administrative rules *SECTION* under s. 13.172 (3) *of the statutes* no later than November 15, 2013. *in the manner provided*

(3) RULES. The department of natural resources and the department of agriculture, trade and consumer protection may jointly promulgate rules to implement any of the recommendations for changes to administrative rules that are based on the study conducted under ~~sub (1) (a) and (b)~~ that will not result in a conflict with the statutes.

2. Page 1025, line 16: after that line insert:

(c) *Emergency rules.*  
(4L) ~~STUDY ON FISH FARMS~~ The department of natural resources and the department of agriculture, trade and consumer protection may use the procedure under section 227.24 of the statutes to jointly promulgate rules under section 29.721 (3) of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and

to implement  
~~paragraph (a)~~

MONET

1 (2) of the statutes, emergency rules promulgated under this subsection <sup>e paragraph</sup> remain in  
2 effect until June 30, 2016, or the date on which permanent rules take effect,  
3 whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes,  
4 neither department is required to provide evidence that promulgating a rule under  
5 this subsection <sup>e paragraph</sup> as an emergency rule is necessary for the preservation of the public  
6 peace, health, safety, or welfare, and neither department is required to provide a  
7 finding of emergency for a rule promulgated under this subsection.”

8

(END)

<sup>e</sup>  
paragraph



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBb0277/3

MGG:eev&cjs:rs

stays

stays

LFB:.....Probst – Fish farm regulation studies

**FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT ,**

**TO ASSEMBLY BILL 40**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1025, line 16: after that line insert:

3 “(4q) FISH FARM STUDIES AND RULES.

4 (a) *STUDIES.* ← keep italics  
← NO CS

5 1. The department of natural resources and the department of agriculture,  
6 trade and consumer protection shall conduct a study of the statutes and  
7 administrative rules that are in effect on the effective date of this subdivision and  
8 that are applicable to fish farms, as defined in section 95.001 (1) (aj) of the statutes,  
9 for the purpose of assessing the need for these statutes and rules. In making this  
10 assessment, both departments shall study the issue of overlap among these statutes

1 and rules and the possibility of streamlining the procedures used by both  
2 departments in administering these statutes and rules.

3 2. The department of natural resources and the department of agriculture,  
4 trade and consumer protection shall also conduct a study on the viability of creating  
5 a fish hatchery stamp that could be issued to holders of licenses under chapter 29 of  
6 the statutes that authorize fishing for sport.

7 (b) *Recommendations and report.* The department of natural resources and the  
8 department of agriculture, trade and consumer protection shall jointly make  
9 recommendations based on the studies conducted under paragraph (a) 1. and 2. and  
10 the department of natural resources shall prepare a report containing the results of  
11 the studies and these recommendations. The department of natural resources shall  
12 submit the report to the appropriate standing committees of the legislature and to  
13 the joint committee for review of administrative rules in the manner provided under  
14 section 13.172 (3) of the statutes no later than November 15, 2013.

15 (c) *Emergency rules.* The department of natural resources and the department  
16 of agriculture, trade and consumer protection may use the procedure under section  
17 227.24 of the statutes to promulgate rules to implement any of the recommendations  
18 for changes to administrative rules that are based on the study conducted under  
19 paragraph (a) 1. Notwithstanding section 227.24 (1) (c) and (2) of the statutes,  
20 emergency rules promulgated under this paragraph remain in effect until June 30,  
21 2016, or the date on which permanent rules take effect, whichever is sooner.  
22 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, neither department  
23 is required to provide evidence that promulgating a rule under this paragraph as an  
24 emergency rule is necessary for the preservation of the public peace, health, safety,

1 or welfare, and neither department is required to provide a finding of emergency for  
2 a rule promulgated under this paragraph.”.

3 (END)



LFB:.....Probst – Fish farm regulation studies

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**ASSEMBLY AMENDMENT ,**

**TO ASSEMBLY BILL 40**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1025, line 16: after that line insert:

3 “(4q) FISH FARM STUDIES AND RULES.

4 (a) *Studies.*

5 1. The department of natural resources and the department of agriculture,  
6 trade and consumer protection shall conduct a study of the statutes and  
7 administrative rules that are in effect on the effective date of this subdivision and  
8 that are applicable to fish farms, as defined in section 95.001 (1) (aj) of the statutes,  
9 for the purpose of assessing the need for these statutes and rules. In making this  
10 assessment, both departments shall study the issue of overlap among these statutes

1 and rules and the possibility of streamlining the procedures used by both  
2 departments in administering these statutes and rules.

3 2. The department of natural resources and the department of agriculture,  
4 trade and consumer protection shall also conduct a study on the viability of creating  
5 a fish hatchery stamp that could be issued to holders of licenses under chapter 29 of  
6 the statutes that authorize fishing for sport.

7 (b) *Recommendations and report.* The department of natural resources and the  
8 department of agriculture, trade and consumer protection shall jointly make  
9 recommendations based on the studies conducted under paragraph (a) 1. and 2. and  
10 the department of natural resources shall prepare a report containing the results of  
11 the studies and these recommendations. The department of natural resources shall  
12 submit the report to the appropriate standing committees of the legislature and to  
13 the joint committee for review of administrative rules in the manner provided under  
14 section 13.172 (3) of the statutes no later than November 15, 2013.

15 (c) *Emergency rules.* The department of natural resources and the department  
16 of agriculture, trade and consumer protection may use the procedure under section  
17 227.24 of the statutes to promulgate rules to implement any of the recommendations  
18 for changes to administrative rules that are based on the study conducted under  
19 paragraph (a) 1. Notwithstanding section 227.24 (1) (c) and (2) of the statutes,  
20 emergency rules promulgated under this paragraph remain in effect until June 30,  
21 2016, or the date on which permanent rules take effect, whichever is sooner.  
22 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, neither department  
23 is required to provide evidence that promulgating a rule under this paragraph as an  
24 emergency rule is necessary for the preservation of the public peace, health, safety,

1 or welfare, and neither department is required to provide a finding of emergency for  
2 a rule promulgated under this paragraph.”.

3 (END)